HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No. 5480 OF 1999

Between:

Puppala Dhanunjayudu

..... Petitioner

AND

Transco, A.P. Limited,
Rep. By its Director,
Member Secretary,
Hyderabad & others

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Shri P. Subash

Counsel for the respondents : Smt. E. Urmila

Dated: 19.12.2006

This petition filed by the petitioner for quashing communication dated 26.08.1998, vide which Superintending Engineer, Operation Circle, Andhra Pradesh State Electricity Board, Eluru rejected his candidature for appointment as Junior

Lineman is the second round of litigation in relation to the same subject matter. The first writ petition filed by the petitioner, which was registered as Writ Petition No.18545 of 1998, was disposed of by the learned Single Judge on 08.07.1998 with the direction to the respondents to consider his candidature without disqualifying him on the ground of underage at the time of initial appointment or over-age at the relevant time.

A perusal of the affidavits of the parties and documents filed by them shows that in the year 1982, the petitioner was selected to undergo training as Village Electricity Worker in terms of B.P.Ms.No.938 dated 20.12.1982 and memo dated 01.03.1984, with the conditions that after completion of training period, the efficiency of the trainee will be examined and he will be recommended for appointment as part-time Village Electricity Worker and that he should not claim any right for absorption into the service in future, since he belongs to Panchayat establishment only.

After successfully completing the training, the petitioner was engaged as part-time Village Electricity Worker in Gram Panchayat, Pathapadu. On 16-9-1997, the petitioner was called for interview in terms of B.P.Ms.No.36 dated 18.05.1987, but his candidature was not considered on the premise that he does not fulfill the qualifications prescribed by the Board. He filed Writ Petition No.18545 of 1998 with the complaint that the concerned authority of the Board had arbitrarily refused to consider his candidature for appointment against 50% vacancies in terms of B.P.Ms.No.36 dated 18.05.1987 on the ground that he was under-age at the time of selection for training. The same was disposed of by the learned Single Judge on 08.07.1998 by directing the respondents to consider his candidature without disqualifying him

on the ground of being under-age. In compliance of the direction given by the Court, respondent No.2 considered the petitioner's candidature, but declined to appoint him on the ground that he does not possess the qualifications prescribed for the post of Junior Lineman. This was conveyed to him by respondent No.2 vide his letter dated 26.8.1998, paragraph 2 of which read as under:

> 'Sri P. Dhananjuyudu is hereby informed that the qualification possessed by you is not sufficient to consider your case for appointment as Jr.Lineman in A.P.S.E. Board."

The petitioner has questioned the rejection of his candidature by contending that he has worked as part-time Village Electricity Worker for more than eight years and this experience is more than the qualification of 10th class prescribed for the post of Junior Lineman.

Learned counsel for the petitioner argued that the qualifications prescribed vide B.P.Ms.No.1048 dated 23.09.1989 are relevant for direct appointment and not for appointment as part-time employees and, as such, the petitioner cannot be denied appointment in terms of the policy contained in B.P.Ms.No.36 dated 18.05.1987.

Learned counsel for the respondents defended the rejection of the petitioner's candidature by arguing that he did not possess the qualification of 10th class pass prescribed vide B.P.Ms.No.1048, dated 23-9-1989.

In my opinion, the decision of respondent No.2 not to consider the petitioner's candidature on the premise that he does not possess the qualification of SSLC/SSC or 10th class pass prescribed under B.P.Ms.No.1048 dated 23.09.1989 does not

suffer from any legal infirmity. Undisputedly, the policy contained in B.P.Ms.No.36 dated 18.05.1987 contemplates consideration of the candidature of only those contract employees or part-time employees, who possesses the prescribed qualifications. Admittedly, the petitioner does not possess the qualification prescribed by the Board i.e. SSLC/SSC/10th class pass. Therefore, he cannot seek appointment on the post of Junior Lineman as of right and this Court cannot direct the respondents to pass an order for his appointment ignoring the prescribed qualification.

The submission of the learned counsel that the appointment of the petitioner as a part-time Village Electricity Worker despite the fact that he did not have the qualifications enumerated in B.P.Ms.No.1048 dated 23.09.1989 should be treated as sufficient for treating him eligible for regular appointment against 50% posts identified under B.P.Ms.No.36, dated 18.05.1987 lacks merit and is liable to be rejected. The equality clause enshrined in Articles 14 and 16 of the Constitution postulates consideration of the candidature of only those who fulfill the conditions of eligibility for appointment to service/post. This necessarily means that a person, who does not possess the prescribed qualifications, cannot claim a right to be considered for appointment on a public post or to public service. Therefore, the mere fact that the petitioner had been engaged as a part-time Village Electricity Worker despite the fact that he did not possess the basic qualifications prescribed for appointment on that post, cannot justify issue of a direction to the respondents to entertain his candidature. A direction by the Court for consideration of the petitioner's candidature would amount to negation of the doctrine of equality, which has also been interpreted by the Supreme Court

to mean that un-equals should not be treated equally.

No other point has been argued.

In the result, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, interim order dated 29.04.1999 passed in W.P.M.P.No.6846 of 1999 is vacated and the W.P.M.P. is dismissed.

G.S.SINGHVI, CJ

19.12.2006

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